

ID: CCA\_2009100212111922

Number: **200946052**

Release Date: 11/13/2009

Office:

UILC: 6511.03-02, 6501.00-00

---

**From:**

**Sent:** Friday, October 02, 2009 12:11:23 PM

**To:**

**Cc:**

**Subject:** RE: Time Sensitive Katrina Loss Issue

A valid protective claim does not have to specify a particular dollar amount or demand an immediate refund. The claim must, however, be sufficiently clear to alert the IRS as to the essential nature of the claim, and must identify a specific year or years for which a refund is sought. Thus, if the taxpayer does not know the precise dollar amount of the loss being carried back, then yes, it is appropriate to label the claim a "protective claim." The claim should reflect that it relates to a Katrina casualty loss, and the taxpayer should include as much information as possible with the claim to alert the IRS that the basis for the claim is the NOL carryback from \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_, or \_\_\_\_\_. In addition, the taxpayer should explain the circumstances as to why he/she is unable to state the precise dollar amount of the loss (e.g., the taxpayer is in litigation with an insurance company or other third party and the precise amount of the loss that can be claimed is unknown). If, however, the taxpayer has sufficient documentation and the precise dollar amount, it is not necessary to label the claim as "protective."

The IRS has a policy of executing a consent to extend the assessment period only in a case involving unusual circumstances, and a policy to keep to an absolute minimum the number of consents obtained from taxpayers. See IRM 25.6.22.2.1(1), citing Rev. Proc. 57-6, 1957-1 C.B. 729. A valid Form 872 must be signed by the IRS and the taxpayer. If the IRS does not wish to execute a Form 872, the taxpayer has no recourse; there is no absolute right to extend the assessment period (and consequently the refund period).



Let me know if you have any further questions.